

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to funding for traffic safety improvements or studies and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 164, “Traffic Safety Improvement Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 312.2(11).

Purpose and Summary

This rule making proposes amendments to Chapter 164, which provides funding for traffic safety improvements or studies on public roads under county, city or state jurisdiction. Generally, the proposed amendments will simplify the application process and review criteria by rearranging some of the rule language to make the chapter more reader-friendly, add and amend definitions, remove unnecessary language, and change the term “Traffic Safety Fund” to “Traffic Safety Improvement Program” to reflect the correct name of the program.

The Traffic Safety Improvement Program (TSIP), established by the Iowa Legislature in 1987, was created for the purpose of implementing traffic safety features that will aid in reducing fatalities and serious injuries on Iowa’s roadways. The TSIP is funded using one-half of one percent of the Road Use Tax Fund in accordance with Iowa Code section 312.2(11). The program has traditionally been available to only the Department, cities and counties. The proposed amendments expand TSIP eligibility to include all public entities that are responsible for public roads and streets in any state park, state institution, or other state land as defined in Iowa Code section 306.3(10). The proposed amendments allow public agencies, such as state universities and state schools, to apply for TSIP funding directly. Currently, these entities must request that the appropriate underlying eligible governmental entity (usually a city or a district office of the Department) submit a TSIP project funding application on the entities’ behalf. The proposed amendments eliminate the need for the extra layer of involvement.

The proposed amendments clarify program operations and submittal requirements to improve efficiency of the program’s administration. Potential applicants are directed to the Department’s website for TSIP application directions, forms, and worksheets. In addition, TSIP applications will be submitted electronically, making the distribution of applications for review more efficient and saving on postage and a considerable amount of paper.

The proposed amendments state that the funds awarded by the Iowa Transportation Commission not used within the time specified in the project agreement will be retained for subsequent programming cycles. This provision will improve the efficiency of the program and ensure available funds are being used to the maximum extent.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. As specified in Iowa Code section 312.2(11), the TSIP is funded each year by one-half of one percent of the Road Use Tax Fund. Funding levels for the program will not change.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 30, 2019. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

A public hearing to hear requested oral presentations will be held as follows:

May 2, 2019
10 a.m.

Department of Transportation
Administration Building
First Floor South Conference Room
800 Lincoln Way
Ames, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 761—164.1(312) as follows:

761—164.1(312) Definitions.

"Commission" means the Iowa transportation commission.

"Department" means the Iowa department of transportation.

"Jurisdiction" means the department, or the a county, or a city or any other public agency having responsibility for and control over a road or street.

“Other public agency” means any board, commission or agency having jurisdiction and control over roads and streets in any state park, state institution and other state land. State park, state institution and other state land means as defined in Iowa Code section 306.3(10).

“Traffic safety ~~fund~~ improvement program” means the ~~fund~~ funding program created for traffic safety improvement projects pursuant to Iowa Code section ~~312.2~~ 312.2(11).

ITEM 2. Amend rule 761—164.2(312) as follows:

761—164.2(312) Information and forms. Information, instructions and application forms may be obtained from the Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1557; or on the department’s website at www.iowadot.gov.

ITEM 3. Amend rule 761—164.3(312) as follows:

761—164.3(312) Program administration.

164.3(1) Purpose. The traffic safety ~~fund~~ improvement program provides ~~supplemental~~ funding for traffic safety improvements or studies on public roads under county, city or state jurisdiction.

164.3(2) Local participation. The department shall administer the traffic safety ~~fund~~ improvement program as a statewide program and will ~~encourage~~ coordinate local participation in the review and evaluation of applications for funding.

164.3(3) Funding.

a. The ~~commission~~ office of traffic and safety shall review all applications and ~~be responsible to program-selected projects, subject to the availability of funds in order to make funding recommendations to the commission.~~ The commission may choose to fund all or part of a project and may make funding or limit funding to specific work items. Funding may also be made dependent upon adherence to a time schedule or fulfillment of specified conditions.

b. The commission need not commit all funds available during a fiscal year. ~~Unexpended funds~~ Funds not committed by the commission shall be retained for subsequent programming cycles. Awarded funds not used within a specified period or remaining after project closure shall be retained for subsequent programming cycles.

c. The maximum traffic safety improvement program funding for a site-specific ~~project~~ improvement shall ~~generally~~ not exceed \$500,000. Total funding allotted for the traffic control device materials category shall not exceed \$500,000 annually. Total funding allotted for ~~all research, the studies and public information initiatives~~ outreach category shall not exceed \$500,000 annually. All project costs exceeding the commitment of traffic safety improvement program funds shall be the responsibility of the applicant.

ITEM 4. Amend rule 761—164.4(312) as follows:

761—164.4(312) Applicant eligibility. ~~The department, a county or an incorporated city~~ Any jurisdiction in the state of Iowa is eligible to apply for traffic safety funds. ~~Joint applications are encouraged when applicable, but the applicants~~ improvement program funding. Applicants shall designate one jurisdiction as the principal contact for a project involving multiple jurisdictions.

ITEM 5. Amend rule 761—164.5(312) as follows:

761—164.5(312) Project eligibility. Projects located on a public roadway within the state of Iowa are eligible for funding. Projects located on a private road or for a private purpose are not eligible.

164.5(1) Types of projects. ~~Eligible applications shall address needs in one of three categories: construction or improvement of traffic operations at a specific site; purchase of materials for initial installation or replacement of obsolete traffic control signs; or transportation safety research, studies or public safety information initiatives.~~

164.5(2) Public roads. Only applications involving a primary road, secondary road, or city street presently open to public use shall be considered. A project for a private purpose or road is not eligible.

ITEM 6. Amend rule 761—164.6(312) as follows:

761—164.6(312) Eligible project costs.

164.6(1) *Site-specific improvements category.* ~~The costs of construction or improvements eligible for traffic safety fund reimbursement~~ Activities considered eligible for funding are those required by, or integral to, the safety aspects of the project. Eligible activities include, but are not limited to, the following:

- ~~a.~~ Road modernization, upgrading or reconstruction.
- ~~b.~~ Bridge and culvert modernization, replacement or removal
- ~~c.~~ Road intersection and interchange improvement including channelization, traffic control devices or lighting.
- ~~d.~~ c. Right-of-way required for a traffic safety project purchases.
- ~~e.~~ d. Drainage and erosion control measures which are an integral part of the project.
- ~~f.~~ e. Traffic control devices required by the project.
- ~~g.~~ f. Guardrail Traffic barriers and other roadside safety devices.
- ~~h.~~ g. Tree removal Removal of trees and other fixed objects.
- ~~i.~~ Other construction activities directly related to or required by the safety project.

164.6(2) *Traffic control devices category.* The cost of materials purchased for initial installation of traffic control devices or replacement of obsolete traffic control devices ~~to~~ is considered eligible for funding. Devices shall comply with the applicable warrants in the Manual “Manual on Uniform Traffic Control Devices Devices” (MUTCD) as adopted in rule 761—130.1(321), Iowa Administrative Code, shall be eligible for funding.

164.6(3) *Research, studies Studies and public information initiatives outreach category.* Funding shall be available for research, studies or public information initiatives related to traffic operations safety. Activities considered eligible for funding include, but are not limited to, the following:

- ~~a.~~ Research shall address addressing statewide traffic safety concerns.
- ~~b.~~ A study shall address remedies for Studies addressing traffic operations safety concerns at a specific location locations. Study funds may be used to supplement federal Traffic Engineering Assistance Program (TEAP) funding.
- ~~c.~~ A public information initiative shall emphasize Initiatives emphasizing or improving traffic safety techniques or policies, and should be of statewide interest. An initiative of local scope may also be considered.

ITEM 7. Amend rule 761—164.7(312) as follows:

761—164.7(312) Ineligible project costs.

164.7(1) No change.

164.7(2) Activities and costs not eligible for traffic safety improvement program funding as a portion of a within the site-specific improvement improvements category include, but are not limited to:

- ~~a.~~ No change.
- ~~b.~~ Safety-related activities associated with projects initiated for purposes other than traffic safety.
- ~~c.~~ b. Contract administration costs.
- ~~d.~~ c. Design and construction engineering and inspection.
- ~~e.~~ d. Utility construction, reconstruction or adjustment, except as an integral part of a project.
- ~~f.~~ e. Sidewalks, bicycle shared-use paths, or railroad-highway crossings, except as an integral part of a project.
- ~~g.~~ f. Maintenance or energy costs for traffic control devices or lighting.
- ~~h.~~ g. Expenditures for items not related to the roadway.

164.7(3) Activities and costs not eligible for traffic safety improvement program funding as a part of an application for within the traffic control device materials devices category include, but may are not be limited to:

- ~~a.~~ Maintenance or energy costs for traffic control devices or lighting.
- ~~b.~~ No change.

ITEM 8. Amend rule 761—164.8(312) as follows:

761—164.8(312) Applications. Applications for funding shall address needs in one of three categories: site-specific improvements, traffic control devices, or studies and outreach. Application procedures for each funding category will be distinct.

164.8(1) ~~An application by a city or county for funding site-specific construction must be submitted on a departmental form specifically used for the traffic safety fund. Comparable information will be provided by the department for state-initiated projects.~~ Applications in the site-specific improvements category shall be submitted electronically on forms provided on the department's website. Required information shall include:

a. The applicant's name, mailing address, telephone number, and a designated contact person ~~for the project.~~

b. No change.

c. ~~The justification~~ Justification for the proposed construction project. Justification may be based on a location's ~~inclusion in the department's list of high accident locations, a TEAP-type study recommendation or a similar crash history, a location's crash risk, or recommendations from a traffic study generating a positive benefit/cost analysis for the proposed improvement.~~

d. Data showing the anticipated effect of the project on traffic safety. Data shall include ~~accident crash history from~~ based on the department's Accident Location Analysis System (ALAS) current crash analysis software and the anticipated accident crash reduction, both in number and type, expected as a result of the project.

e. An itemized cost estimate for the project including a list of the sources and amounts of supplementary funds for the project. Safety-related work items and quantities shall be listed separately.

f. No change.

g. The jurisdiction's official endorsement, where applicable, of the project and written assurance that the improved site will be adequately maintained for a specified period of time.

164.8(2) ~~An application for funding to pay the cost of materials for~~ Applications in the traffic control device installation devices category shall be submitted in writing and electronically on forms provided on the department's website. Required information shall include:

a. and b. No change.

c. ~~An inventory or similar documentation providing justification~~ Justification for the requested device devices, including compliance with the applicable warrants in the "Manual on Uniform Traffic Control Devices" (MUTCD) as adopted in rule 761—130.1(321).

d. A cost estimate, ~~and~~

e. ~~A time schedule for installation after delivery.~~

~~e. f.~~ The jurisdiction's official endorsement of the traffic control device project and written assurance that the traffic control device will be adequately maintained for a specified period of time.

164.8(3) ~~Research, a study or a public information initiative~~ Applications in the studies and outreach category shall be proposed in writing and submitted electronically on forms provided on the department's website. Required information shall include:

a. to c. No change.

d. A time schedule.

ITEM 9. Amend rule 761—164.9(312) as follows:

761—164.9(312) Processing the application.

164.9(1) Submission.

a. The jurisdiction shall submit ~~an original and three copies of~~ the complete application electronically to the office of traffic and safety. An application may be submitted at any time ~~and shall be dated when received by the office of traffic and safety.~~

b. ~~All complete~~ Complete applications received before August 15 16 of each year shall be evaluated for funding in the following state fiscal year.

~~c.~~ If an application is incomplete, the department shall return the application to the applicant to be resubmitted when complete. A resubmitted application shall be dated when received by the office of traffic and safety.

~~d. c.~~ An unfunded application may be resubmitted for consideration during a subsequent funding period cycle.

~~e. d.~~ An application may be withdrawn at any time.

164.9(2) Approval of projects. Department staff shall prepare, with input from ~~city and county~~ local officials, a proposed program of projects for each funding category and submit the programs to the commission for approval. The criterion for determining funding priorities in each category is the demonstrated relationship of the project to traffic safety.

ITEM 10. Amend rule 761—164.10(312) as follows:

761—164.10(312) Project agreement.

164.10(1) After the commission has approved funding for a ~~county or city~~ project, a project agreement shall be negotiated and executed between the department and the local jurisdiction. The agreement shall specify the conditions for project funding, which may include such items as the responsibility for planning, design, right-of-way, contracting, construction, materials inspection, documentation and the criteria for each. The agreement shall also specify the funding level for the eligible work items.

164.10(2) The department shall reimburse the ~~county or city~~ jurisdiction for actual eligible project costs not to exceed the amounts authorized by the project agreement.

~~**164.10(3)** Rescinded IAB 10/30/02, effective 12/4/02.~~

ITEM 11. Amend **761—Chapter 164**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section ~~312.2~~ 312.2(11).